

1 MOT

2 GRIFFITH H. HAYES

3 Nevada Bar No. 7374

MARTIN A. MUCKLEROY

4 Nevada Bar No. 9634

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7 *Attorneys for Plaintiffs*

8
9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 IN RE SMITH & WESSON HOLDING CORP.
12 SHAREHOLDER DERIVATIVE LITIGATION

Case No.: 2:10-cv-02046-LDG-PAL

13 **PLAINTIFFS' *EX PARTE* MOTION**
14 **FOR EXTENSION OF TIME TO FILE**
15 **A CONSOLIDATED AMENDED**
16 **COMPLAINT**

(First Request)

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19 Plaintiffs Frank Holt and Norman Hart ("Plaintiffs"), by and through their counsel, hereby
20 move the Court for an order pursuant to Local Rules 6-1 and 6-2 extending the time allotted by
21 Stipulation and Order dated November 15, 2010, to file Plaintiffs' consolidated amended complaint
22 which is presently due on December 15, 2010. *See* Stipulation and Order dated November 15, 2010,
23 attached hereto as Exhibit A. No previous requests for an extension have been made by Plaintiffs.

24 On or about September 3, 2010 and September 17, 2010, respectively, Plaintiffs filed
25 shareholder derivative actions on behalf of nominal defendant Smith & Wesson Holding Corp.
26 ("Smith & Wesson" or the "Company") in the District Court, Clark County, Nevada against certain
27 officers and directors of the Company. By Stipulation and Order entered November 15, 2010, the

1 parties to the shareholder derivative actions agreed to consolidate the actions and set a schedule for
2 the filing of a consolidated amended complaint and defendants' response thereto. Shortly thereafter,
3 on November 23, 2010, defendants filed a notice of removal based upon diversity jurisdiction
4 pursuant to 28 U.S.C. §§ 1332 and 1441.

5 Plaintiffs contend that such removal was improper and intend to seek remand to state court.
6 As defendants have indicated they will not stipulate to remand, Plaintiffs intend to file a motion for
7 remand within the thirty (30) day statutory time period and no later than December 22, 2010, which
8 motion defendants will not oppose. Meanwhile, Plaintiffs' deadline to file a consolidated amended
9 complaint is December 15, 2010.

10 Plaintiffs submit that they have good cause to seek an extension of time to file their
11 consolidated amended complaint in light of defendants' unexpected removal, the procedural and
12 jurisdictional implications of such removal on Plaintiffs' filing of an amended complaint, the
13 burdensome schedule of Plaintiffs' counsel during the month of December, and counsel's diligence
14 in seeking this extension.

15 Accordingly, Plaintiffs request that the Court extend Plaintiffs' time to file a consolidated amended
16 complaint from December 15, 2010, to fourteen (14) days following the Court's ruling on Plaintiffs'
17 anticipated remand motion, which motion will be filed on or before December 22, 2010.

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1 Pursuant to Local Rule 7-4, Plaintiffs' counsel conferred with counsel for defendants to
2 resolve this motion by consent, but no agreement could be reached.

3 DATED: December 8, 2010

4 By: /S/ Martin A. Muckleroy

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22
23 **IT IS SO ORDERED:**

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26 UNITED STATES MAGISTRATE JUDGE

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28 DATED: December 14, 2010